

GUIDE FOR PROCESSING SEPARATIONS FOR PHYSICIANS AND DENTISTS WHO ARE RECEIVING SPECIAL PAY

This Guide contains the procedures for separating physicians and dentists who are in receipt of special pay. It provides information on the impact on benefits of physicians and dentists who separate from VA employment with refund liabilities, and the necessary actions to ensure that the refund liabilities are fully reflected in employee records.

CONTENTS

PARAGRAPH	PAGE
1. Purpose.....	1
2. References.	1
3. Definitions.	1
4. Step-by-Step Procedures for Separating Physicians and Dentists.....	1
5. Special Pay Agreements and Service Obligations	3
6. Refund Liabilities	4
7. Due Process for Special Pay Refund Liabilities	5
8. Waivers of Refund Liabilities.....	5
9. Required Documents	6

APPENDICES

A. Requesting VA Form 30-212, Individual Retirement RPO for Employees Considering Retirement From VA.....	A-1
B. Impact of Refund Liabilities on Employee Benefits... ..	B-1
C. Documenting Refund Liabilities on Employee Personnel Records.....	C-1
D. Due Process For Refund Liabilities	D-1
E. Waivers of Refund Liabilities	E-1
F. Adjusting Employee Payroll Records Due to Refund Liabilities	F-1
G. Computing Lump Sum Leave Payments for Physicians and Dentists	G-1
H. Reporting Physician and Dentist Salaries for FEGLI Coverage.....	H-1
I. Completing OPM Form RI38-133.....	I-1

GUIDE FOR PROCESSING SEPARATIONS FOR PHYSICIANS AND DENTISTS WHO ARE RECEIVING SPECIAL PAY

1. PURPOSE

a. This guide contains the procedures to be followed for processing the separations of physicians and dentists (hereinafter referred to as ‘employees’ or ‘individuals’) who are receiving special pay. It also provides information on the potential implications on benefits of individuals who separate from VA employment and breach their special pay agreements, and the required actions by managers, Human Resources (HR) staff, and Payroll employees to assure that special pay refund liabilities are fully reflected in employee records.

2. REFERENCES

- a. [MP-5, Part II, Chapter 3](#), Section B, “Special Pay for Physicians and Dentists.”
- b. MP-4, Part VIII, “Debt Collection.”
- c. PAID Bulletin 96-01, “PAID Processing Instructions: Breach of P&D Special Pay Agreements,” March 19, 1996.
- d. Human Resources Management Letter (HRML) 05-96-2, May 20, 1996.
- e. Office of Human Resources Management Flyers #051-7, February 12, 1997; 051-21, June 30, 1997; 051-66, December 15, 1997; 051-77, March 2, 1998; 051-175, June 21, 1999; 051-177, July 12, 1999; and 051-192, September 7, 1999.

3. DEFINITIONS

- a. **Employee**, as used herein, refers to physicians and dentists appointed in VHA under 38 U.S.C. 305, 7306, 7401(1), or 7405.
- b. **Agreement** refers to the document signed by both the employee and the appropriate approving official, and consists of both VA Form 10-5379a, “Special Pay Agreement,” and 10-5379e, “Special Pay Computation Physicians and Dentists.”
- c. **Special pay** refers to additional pay authorized under 38 U.S.C. 7431 et seq.

4. STEP-BY-STEP PROCEDURES FOR SEPARATING PHYSICIANS AND DENTISTS

- a. When managers become aware that under their supervision are considering retirement or are preparing to separate for any reason, that information should be shared with the HR staff as soon as possible.

b. The HR staff should initiate a review of the individual's employment history, personnel records, and special pay agreements to verify:

(1) That the Retirement RPO (see [Appendix A](#)) accurately reflects the employee's service, normal hours worked (for part-time service), and salary amounts with correct dates of changes (particularly for the last three years of employment for planned retirements);

(2) Whether or not the individual has completed 15 full years of creditable service as a VA physician or dentist (to determine whether special pay will be included in annuity computations);

(3) Whether or not the individual has completed eight full years of creditable service as a VA physician or dentist since July 14, 1991 (to determine how much of the special pay will be included in annuity computations);

(4) Whether or not the individual has any leave without pay (LWOP) during the current agreement that will extend the year(s) of obligated service;

(5) Whether the individual had retirement deductions withheld from special pay as of July 13, 1991 (if applicable); and,

(6) Whether the date of the planned separation coincides with the end of the special pay agreement's year of obligated service (as adjusted by any LWOP).

c. Once this information on retirement eligibility and potential refund liability is known, HR staff or other appropriate individuals need to review with the employee the implications of the planned separation date, particularly if it will result in a refund liability. [Appendix B](#) provides a summary of the items impacted by an individual's separation with a refund liability.

d. HR staff should submit personnel actions, as necessary, to correct errors or omissions from the Retirement RPO while the individual is still coded in the PAID system. This will ensure that the automated retirement records that are generated upon separation and reported to OPM contain only accurate information.

e. If the employee separates with a special pay refund liability, the HR staff must follow the step outlined in [Appendix C](#) to record the refund liability on the employee's personnel records.

f. The amount of the employee's repayment obligation will be computed and provided to the employee in a bill of collection letter that outlines the employee's due process rights (see [Appendix D](#)).

g. The employee may elect to waive due process rights and acknowledge the debt. The employee may direct that the debt be collected from the final paycheck. *NOTE: The debt may be collected by offset only with the employee's express authorization.*

h. If the employee requests a waiver of the repayment liability, the request must be submitted to the appropriate level. Network Directors may decide cases on behalf of the Under Secretary involving liabilities of \$15,000 or less; cases involving amounts above \$15,000 must be submitted to the Under Secretary for decision. See [Appendix E](#) for more information.

i. Once the liability is established and the manager or HR staff have submitted personnel actions to correct the employee's records, the Payroll staff must correct the employee's salary payment history. This will involve adjusting Medicare and income tax accounts, Thrift Plan contributions, FEGLI premiums, etc. See [Appendix F](#) for detailed information.

j. [Appendix G](#) provides guidance on applying the refund liability to employees' lump sum leave payments. [Appendix H](#) provides instructions for reflecting the impact of a refund liability on FEGLI coverage amounts. [Appendix I](#) provides instructions for completing OPM Form RI38-133, which is required for every separating physician and dentist.

k. If the liability is ultimately waived, the HR staff must submit correction action(s) to restore the special pay to the employee's record. The correction personnel actions (manually prepared if the individual has dropped out of the PAID system) are submitted to Payroll.

l. Payroll staff must take these correction actions and generate (manually, if necessary) corrected retirement records (CSRS 2806-1 or FERS 3101), corrected final salary and lump sum leave payments, and related items to restore the amount of special pay credited to the individual.

5. SPECIAL PAY AGREEMENTS AND SERVICE OBLIGATIONS

a. Physicians and dentists must sign special pay agreements to receive special pay. Agreements may be negotiated for any duration between one and four years, but must run in whole year increments. Every year of an agreement carries a service obligation that requires employees to complete the full year of service in return for any special pay received in that year of the agreement.

b. When an employee has received special pay and then voluntarily or because of misconduct fails to complete the year of obligated service, the individual breaches the special pay agreement and incurs a refund liability. A refund liability requires the individual to forfeit all or a portion of special pay received in that year, according to the following schedule:

- (1) 100 percent of the special pay received in the first year of an agreement;
- (2) 75 percent of the special pay received in the second year of an agreement;
- (3) 50 percent of the special pay received in the third year of an agreement; or,
- (4) 25 percent of the special pay received in the fourth year of an agreement.

c. Employees may elect to cancel special pay agreements, particularly if they know that they will be breaching their agreements and wish to minimize the amount of the refund liability, *but the 1-year service obligation remains*. Employees must complete a year of service in a pay status in return for any special pay received. If an individual cancels an agreement and does not complete a full year of service, then the special pay received in that year of the agreement is subject to refund. Leave without pay (LWOP) does not satisfy a service obligation; employees who take LWOP only extend their year of obligated service.

6. REFUND LIABILITIES

a. Refund liabilities occur when the employee does not complete the year of obligated service voluntarily or because of misconduct. When the employee breaches the agreement due to circumstances beyond the control of the individual, no refund liability will exist. Breaches result from employees separating from VA employment *or* from conversions to excluded categories (e.g., less than quarter-time, intermittent tour, etc.). This determination applies in the following instances:

- (1) Death in service;
- (2) Separation on OPM-approved disability retirement;
- (3) Separation due to expiration of a time-limited appointment; or
- (4) Separation or reduction in hours below quarter-time due to staffing adjustment.

b. When an individual separates on other than the last day of the year of obligated service and no refund liability is assessed, a statement will be added to the SF 50B documenting why no liability exists (Remark Code ØT).

c. When an individual's special pay is subject to refund, that individual has lost entitlement to that compensation. This loss of compensation affects the record of salary payments and the rate of pay to be used for benefits purposes. The refund liability is established by the Human Resources staff submitting a personnel action to adjust the amount of special pay by the percentage of the refund liability, as specified in par. 5b. See [Appendix C](#) for detailed instructions on preparing these personnel actions.

d. An individual with a refund liability may not have that special pay included on the retirement RPO, or record of salary payments (known as Form 2806 for CSRS retirees or Form 3100 for FERS retirees).

e. When the special pay is deducted from the employee's record, corrections must be made to the individual's contributions to retirement, TSP accounts, Medicare/OASDI taxes, W-2s (if already issued for a previous year), FEGLI premiums, and other payments. See [Appendix F](#) for detailed instructions on the payroll procedures required to deduct special pay from the individual's salary records.

f. An individual with a refund liability may not have that special pay included in the computation of lump sum leave benefits. See [Appendix G](#) for detailed information on the procedures for computing lump sum leave payments.

g. An individual with a refund liability may not have that special pay credited for FEGLI purposes on Form 2821. See [Appendix H](#) for detailed information on the procedures for reporting an individual's final rate of pay to FEGLI when a refund liability exists.

h. An individual with a refund liability may not have that special pay included in retirement annuity estimates or computations. The high-3 is recorded in OPM Form RI 38-133. Instructions for preparing this form are found in [Appendix I](#).

i. It is essential that retirement counseling stress to employees **the importance of separating without a refund liability**. Refer to [Appendix B](#) for information on the impact of refund liabilities on employees' benefits.

7. DUE PROCESS FOR REFUND LIABILITIES

a. Managers or HR staffs must initiate personnel actions to correct (reduce) physicians' or dentists' special pay when they breach their special pay agreements. Those corrections (reductions to special pay) result in refund liabilities. Refund liabilities are documented by Fiscal personnel establishing debts to the Government. Employees must be notified in writing of the existence of these debts and be afforded their due process rights.

b. Due process rights include written notification, the opportunity to challenge the existence and amount of the debt, and the opportunity to request a waiver of that debt.

c. Employees must authorize the collection of any debt by offset against monies owed them.

d. Time limits should be given to employees to respond to notification letters, so that action may be taken in a timely manner to collect on outstanding debts, if necessary.

e. Refer to [Appendix D](#) for additional information.

8. WAIVERS OF SPECIAL PAY REFUND LIABILITIES

a. Employees may request waivers of their refund liabilities. These requests should provide an explanation of the circumstances leading to their separations that would assist management officials in determining that the separations were due to circumstances beyond the individuals' control. This is the statutory basis on which waiver decisions must be made.

b. The Secretary has delegated to the Under Secretary for Health authority to decide waiver requests. On January 28, 2000, Network Directors were given authority to approve, on behalf of

the Under Secretary, waivers of liabilities of \$15,000 or less. Liabilities over \$15,000 must be submitted to VACO.

c. Additional guidance on applying the statutory standard for waiver, as well as a sample format, can be found in [Appendix E](#).

9. REQUIRED DOCUMENTS

a. OPM requires that Form RI 38-133, Certification For Title 38 Physicians and Dentists, be completed for all VHA physicians and dentists who separate from VA employment. See **Appendix I** for detailed information on completing the form. Human Resources staff must complete this form for every physician and dentist who separates from service.

b. The certification form documents key information, including the salaries to be used to compute annuities for retiring VHA physicians and dentists. The crediting of special pay to annuity computations is dependent on employees completing two different service requirements:

(1) 15-Year Requirement. Employees must complete 15 years of creditable service as VA physicians or dentists in order to have special pay included in annuities. *This requirement is waived in cases of death in service and disability retirement.*

(2) 8-Year Phase-In. Employees must complete 8 years of creditable service after July 13, 1991. *This rule is waived in cases of death in service and disability retirement.* Employees must have worked 8 full years of creditable service after July 13, 1991, in order to have the full amount of special pay included in annuity computations (provided they have also met the 15-year requirement). The service need not be continuous. The same service can be used to satisfy both requirements. The phase-in of special pay is in 25 percent increments for each two full years of service. Thus, an employee who completes 5 years of service after July 13, 1991, will receive 50% of special pay in annuity computations, provided the individual has met the 15-year requirement.

APPENDIX A.
REQUESTING VA FORM 30-212, INDIVIDUAL RETIREMENT RPO
FOR EMPLOYEES CONSIDERING RETIREMENT FROM VA

This RPO shows what will print on the retirement record. It is not the actual SF 2806 CSRS or 3100 FERS, however, it does provide the same information.

1. While in PAID/OLDE, Select the option “On-Line Data Entry System (OLDE).” (Mark all selection by keying “X”)
2. At the next screen, select the option “MASTER RECORD UPDATE TRANSACTIONS MENU.”
3. At the next menu, select “REQUEST FOR PRINTOUT (12,13).” Enter the employee’s social security number.
4. Select “RETIREMENT MASTER RPO” from the next menu of choices.
5. Submit the request by pressing F10. The Retirement Master RPO should be sent to the Control point within a week

You have successfully completed the process!

APPENDIX B.
IMPACT OF REFUND LIABILITIES ON EMPLOYEE BENEFITS

Impact on benefits
Annuity * Lump Sum Leave * FEGLI * TSP * Last Paycheck

An individual who forfeits entitlement to special pay is no longer entitled to have that money reflected in benefits.

When the special pay is forfeited, it is deducted from the salary history, and not used as part of the high-3 for retirement purposes. When the high-3 is reduced, the annuity (retirement check) is reduced for the rest of the individual's lifetime.

When there is a refund liability, all or part of the special pay is forfeited. Because the employee's rate of pay is reduced by the liability, the final rate of pay used to compute the lump sum leave payment is reduced. Employees have their entire accumulated leave computed at the reduced rate.

For life insurance purposes, because the special pay is not credited to the employee's pay as of the last day of employment, it is excluded from the face value of the life insurance. Premiums that had been paid on the additional coverage will be refunded, but the employee's life insurance coverage that is carried into retirement is reduced.

Other benefits:

Thrift Savings Plan (TSP) contributions are based on a percentage of the employee's pay. If the pay rate is reduced, the TSP contributions must be withdrawn from the account. The Government's matching share is also withdrawn.

The last paycheck is reduced to reflect the forfeited special pay. The employee may direct VA to collect the repayment liability from the final paycheck, further reducing that payment.

APPENDIX C.
DOCUMENTING REFUND LIABILITIES ON EMPLOYEE PERSONNEL RECORDS

1. When it is determined that an employee will incur a refund liability at the time of separation, action must be taken by the manager and HR staff to initiate a personnel action to delete or reduce the amount of special pay in the employee's records. If no refund liability exists, it will be documented on the separation SF 50B with Remark Code 'ØT.' Remark Code ØT will print on the separation SF 50B as "No refund liability exists because *". HR staffs will type in one of the following statements, selecting the one that is appropriate to the situation:

- a. Separated on last day of year of obligated service.
- b. Separated due to staffing adjustment.
- c. Change in hours due to staffing adjustment.
- d. Expiration of time-limited appointment.
- e. OPM-approved disability retirement.
- f. Death in service.
- g. Waiver approved on (date). This last remark can be used if the liability (under \$15,000) is waived locally before the employee separates and drops out of the system.

2. Procedures When Employees Are Still on VA's Rolls

a. Separation during first year of VA employment in the first year of an agreement: If special pay was included on the appointing SF 50B, correct the SF 50B deleting any reference to special pay. Otherwise, cancel the original pay adjustment (NOA 894D) that authorized special pay under that agreement. This will reflect the 100 percent refund liability incurred in the first year. Correct the amount of special pay on all SF 50B's issued after the effective date of the retroactive pay adjustment to reflect the recalculated (reduced) amount of special pay. Correct all SF 50B's issued for this employee to delete all references to special pay.

Example: A dentist is hired and given a 4-year agreement effective 9-1-00 paying \$4,000; the employee resigns effective 2-19-01. Since the breach occurred in the first year of the agreement, a 100% refund liability is incurred. Correct the appointment SF 50B to delete all reference to special pay. Also correct all SF 50B's issued for this employee, including the comparability adjustment in January.

- b. All other separations during first year of an agreement:

(1) For individuals with a pay adjustment action concurrent with the effective date of the agreement, correct the SF 50B to delete any reference to special pay. This process is identical to that described in subpar. A.

(2) For individuals who did not have a pay adjustment action concurrent with the effective date of the agreement: Terminate the previous agreement that was in effect when the breached agreement originally became effective. Use NOA 894E and Remark Code 0(zero) S for this termination action. The effective date of this termination action should be one day prior to the effective date of the agreement that was breached. This will delete the current agreement's special pay from the employee's record.

(3) Correct the amount of special pay on all SF 50B's issued since the agreement took effect to delete any reference to special pay.

Example: A physician signs a new agreement to continue receipt of special pay effective 7-14-00, which is not the beginning of a pay period. Because there was no change in special pay, no pay adjustment SF 50B was generated on 7-14-00. This individual then resigns effective 3-19-01. Prior to entering into this agreement, the individual was on a 4-year agreement starting 7-14-96 paying \$50,000 special pay. Since the breach of the 7-14-00 agreement occurred in the 1st year of that agreement, a 100% refund liability is incurred. A cancellation of the 7-14-00 pay adjustment which authorized \$50,000 special pay is required. Also, all SF 50B's issued on or after 7-14-00 must be corrected to delete all references to special pay.

(4) If the current agreement superseded a previous agreement, an additional step is required to 'close out' the prior agreement. The old agreement is closed out with a termination action (NOA 894E), dated the day before the current agreement took effect. Use Remark Code ØS.

Example: A dentist signs a 3-year agreement effective 7-14-00 paying \$12,000. She later resigns effective 3-19-01. Prior to entering into this agreement, the individual was on a 4-year agreement starting 8-1-97 paying the same amount of special pay. Since the breach of the 7-14-00 agreement occurred in the 1st year of that agreement, a 100% refund liability is incurred. A cancellation of special pay effective 7-14-00 is required. Also, all SF 50B's issued on or after 7-14-00 must be corrected to delete all references to special pay. **In addition**, a termination action (NOA 894E) for the prior agreement is also required. The effective date of this second action is 7-13-00 (the day prior to the effective date of the breached agreement). Include remark code ØS with this action.

Note: This second step is required when the prior agreement was superseded. In these instances, the breached agreement replaced another agreement that was never "officially" closed out. This step closes out that previous agreement. When closing out the previous agreement, insure no refund liability exists. Employees are obligated to fulfill one year of service under every agreement they sign.

The following example illustrates a double refund liability: A physician signs a 1-year agreement effective 5-25-00 increasing special pay to paying \$50,000. He then resigns effective 5-27-00. Prior to entering into this agreement, the individual was on a 1-year agreement effective 7-1-99 paying \$30,000 special pay. Since the breach of the 5-25-00 agreement occurred in the 1st year, a 100% refund liability is incurred. Also, since the employee did not fulfill the 1-year service obligation under the 7-1-99 agreement (by remaining with VA through 6-30-00), another 100% refund liability is incurred. The following steps are needed: Cancel the 5-25-00 pay adjustment which authorized \$50,000 special pay. For the 7-1-99 agreement, do one of the following: If there was a pay adjustment dated 7/1/99 authorizing the \$30,000 special pay, cancel it. If there was no pay adjustment processed 7/1/99 (as would be the case with a routine agreement renewal), terminate the agreement as described in (2) above. Also, any SF 50B's issued on or after 7-1-99 must be corrected to delete all references to special pay.

c. For separations during the second, third, or fourth year of a multi-year agreement, it is highly unlikely that a pay adjustment occurred concurrent with the start of the current year of the agreement. In these cases, follow the following steps:

(1) Determine the percentage of special pay to be forfeited based on the agreement's anniversary date and the year in which the separation occurs, i.e. 75% liability (reduction) during the second year, 50% during the third year, or 25% during the fourth year.

(2) Process a pay adjustment retroactive to the current agreement year's anniversary date and code a new amount of special pay (reduced by the appropriate percent forfeited). Use NOA 894D and Remark Code *C for this action.

(3) Correct the amount of special pay on all SF 50B's issued after the effective date of the retroactive pay adjustment to reflect the recalculated (reduced) amount of special pay.

Example: A physician with a 4-year agreement effective 7-14-00 paying \$50,000 resigns effective 2-19-03. Since the breach occurred in the third year of the agreement, a 50% refund liability is incurred. A retroactive pay adjustment effective 7-14-02 (the most recent anniversary date) reducing the total amount of special pay to \$25,000 (\$50,000 x 50%) is required. Also, all SF 50B's issued on or after 7-14-02, such as the annual pay adjustment, must be corrected to reflect a special pay amount of \$25,000.

d. Use Legal Authority code Z56 [38 U.S.C. 210(c)(1), 7431] on all actions described in this paragraph.

3. Manual Adjustments After Employees Leave VA's Rolls. If the actions in par. 2 are accomplished through the PAID System before the employee separates, SF 50B's will be produced and the employee's Retirement Record will be automatically updated. When PAID is not available, i.e. the employee has already separated, the same steps will be taken as outlined above; but Human Resources staffs will manually prepare all SF-50B's.

4. Retirement Record. The Finance (Payroll) office must manually prepare SF 2806-1 (CSRS) or SF 3101 (FERS) to correct the employee's Retirement Record, and prepare and submit transactions to refund retirement deductions.

Note: Special pay is recorded in the Service History section of the individual retirement record (SF 2806 or 3100) as a separate line entry under the accompanying pay adjustment entry in the following manner:

Effective Date	Action	Base Pay
07-14-00	Pay Adjustment-Special Pay	100,000.00*
07-14-00	SP 38 USC 7431	50,000.00

* Base pay only.

The above entry from the original retirement record reflects \$50,000 special pay effective 07-14-00. Review of the record shows that this was also the effective date of a multi-year agreement. The employee voluntarily resigned effective 11-15-01. A refund liability has been determined to be appropriate and collection procedures have been initiated by the station. When processing the separation and reducing the special pay by 75% (resignation during

the second year of the agreement), the personnel actions and the retirement record must be annotated to include a pay adjustment retroactive to the most recent agreement anniversary date as follows:

Effective Date	Action	Base Pay
07-14-01	Pay Adjustment-Special Pay	100,000.00*
07-14-01	SP 38 USC 7431	12,500.00

NOTE: This is not a correction to the original pay adjustment which was effective in July 2000, but a completely separate and new retroactive pay adjustment effective on the first anniversary date of the agreement, July 14, 2001.

5. If individuals later receive waivers of their refund liabilities, all the steps must be reversed and the personnel actions cancelled or corrected to restore special pay to their salary and retirement records.

a. Personnel actions (manually prepared if the individual is no longer in the system) must be prepared to correct the salary record by restoring any special pay liability that has been waived. (Note that partial waivers may be granted.) If the employee is retired, corrections to the retirement RPO and FEGLI and OPM Form RI38-133 must also be done. Use Remark Code ØT, stating that no liability exists because the liability has been waived.

b. Payroll staff will restore the special pay to the employee's payroll records, including TSP, recomputation of lump sum leave payment, correction to the 2806-1 or 3101 (as applicable), and pay any funds due the former employee.

APPENDIX D. DUE PROCESS FOR REFUND LIABILITIES

What Is Due Process?

Under the Debt Collection Act, the Government may not take action to collect on any presumed debt to the Government until advising an individual of:

- (a) the right to question the existence of a debt and the amount of the debt, and
- (b) the right to request a waiver of the debt.

What Does This Mean?

VA cannot collect money from an individual unless and until there is a valid debt to the Government established. To establish a debt, one must issue a bill of collection (BOC) and establish an account receivable in Finance. These steps trigger an individual's due process rights.

What Are The Steps Involved?

Once VA advises the employee of the existence of a debt, the individual has 30 days to dispute the debt and question the amount. If there is no response by that time, then the debt is considered a valid debt.

Normally, the individual then has 180 days to submit a request for waiver of repayment. After a total of 210 days have elapsed, there are no further rights. VA may choose not to consider a waiver request received after the 210 days have elapsed.

These time limits should be included in the notification to the employee.

Who Should Receive a Due Process Notification Letter?

Any employee who has a special pay refund liability should receive a due process notification letter. An employee has a refund liability if s/he separates on other than the last day of the year of obligated service (excludes deaths in service, OPM-approved disability retirements, expirations of time-limited appointment, and separations due to staffing adjustment).

How Do You Provide Due Process Rights to Individuals?

1. HR initiates personnel action to reduce special pay to reflect forfeiture of 25 – 100% of special pay.
2. The amount of the refund liability is computed.
3. The notification letter is sent to employee, with copy of bill of collection and the following elements:
 - Notice of Debt, including amount owed the Government.
 - Reason for the debt.
 - Rights to challenge the debt and request a waiver.
 - Time limits on challenging the debt and requesting a waiver.
 - Information on interest charges.
 - Opportunity for employee to authorize collection of debt by offset from payments due.

Additional information is available in MP-4, Part VIII, "Debt Collection."

SAMPLE DUE PROCESS NOTIFICATION LETTER

Insert appropriate information at brackets

Information in Italics is for direction only and should not be reproduced in the final letter

Dear [name of employee]:

You signed a special pay agreement that included a service obligation. You are subject to forfeit all or a portion of the special pay received under that agreement if you voluntarily separate from VA employment or are separated for cause. Based on your separation from VA employment on [date], you have incurred a refund liability of [\$ enter amount owed.] An explanation of that debt is enclosed,

Before you pay the refund liability, you must be informed that you have a right to dispute the existence and amount of the debt. Also, you must be advised of your right to request a waiver of the repayment obligation. We are providing you with the opportunity to request a review and waiver of the debt.

You have a right to dispute the existence or amount of the debt. You must tell us in writing within 30 days of the date of this letter why you believe that you do not owe this debt or why the amount is incorrect. Please address your letter to [local facility name and address]

If you do not challenge the existence or amount of the debt, you may still request a waiver of the debt. If you wish to request a waiver of this refund liability, you should:

Provide to us in writing an explanation of why you left VA without completing the year of obligated service specified in the special pay agreement. Under the law, VA may only waive a refund liability when it is determined that your failure to complete the year of obligated service was due to circumstances beyond your control. Please include any information that you believe supports such a determination. Send your request for a waiver to the address above WITHIN 210 DAYS of the date of this letter.

NOTE: We will not begin collection proceedings on any unpaid debt until a decision is made on your waiver request.

As a result of this refund liability, we will report reduced pay information to OPM for purposes of annuity computations. If your refund liability is waived, we will report corrected information to OPM. In addition, this refund liability will reduce your final paycheck and the value of your lump sum leave payment (if any). If your refund liability is waived, you will receive any additional funds owed to you.

If you decide NOT to request a waiver of this refund liability or your waiver request is denied and you have not repaid the refund liability, we will have to begin collection proceedings on this debt. Debts being repaid by installments will be charged at an annual interest rate of five (5) percent. A

monthly administrative cost of collection fee of [*(enter current amount)*] (subject to change annually) may also be charged. Further, a penalty charge of 6 percent annually will be assessed on any account more than 90 days past due. If full payment of the debt is received within 30 days of the date of this letter, no interest or administrative cost of collection fees or penalty charges will accrue. NOTE: If you request a waiver of the refund liability, interest will accumulate, but no penalties will be assessed while your request is being considered.

If you do not respond to this letter within 210 days of the date on the letter, we will assume that you have decided NOT to request a waiver and have acknowledged the debt. We will then initiate collection of any unpaid debt.

[*Add this paragraph if employee is owed funds from last pay check or lump sum leave:* With your authorization, we will collect this debt by offset from any funds owed you. If you acknowledge this debt and wish to have the debt paid by offset from funds still owed to you, please sign the enclosed authorization and return it to us.]

We are sorry to inform you of this liability and urge you to carefully consider whether to request a review and waiver. A copy of the bill of collection is enclosed.

If you have any questions about this letter or would like to discuss this matter, please contact [*insert name and number of point of contact*] .

Sincerely,

[*signature block of
Appropriate Official*]

Enclosures

I hereby authorize the Department of Veterans Affairs to collect the debt owed by me as a result of a special pay refund liability from final salary and lump sum leave payments owed me by the Department.

Employee signature and date

APPENDIX E. WAIVERS OF REFUND LIABILITIES

1. The law stipulates that refund liabilities exist if individuals fail voluntarily or because of misconduct to complete the obligated service. These liabilities may be waived if it is determined that the individuals failed to complete the obligated service due to circumstances beyond their control.
2. The Secretary has delegated to the Under Secretary for Health authority to decide waiver requests. The authority to sign for the Under Secretary is now delegated to Network Directors for special pay refund liability waivers of up to \$15,000. If individuals have refund liabilities of more than \$15,000, their waiver requests must still come to VAHQ for decision.
3. Network Directors may decide, on behalf of the Under Secretary, all waiver requests of up to \$15,000. The requests may be approved when it is determined that the failures to complete the obligated service were due to circumstances beyond the individuals' control.
4. The situations that will not result in a refund liability are described in par. 5a of this guide. All other situations result in a refund liability.

5. Applying Statutory Criteria for Waivers

- a. Network Directors have been delegated authority to decide on behalf of the Under Secretary requests for waivers of special pay refund liabilities of not more than \$15,000. Liabilities amounting to more than \$15,000 must be submitted to VAHQ for approval.
- b. In deciding to grant a waiver, it must be determined that circumstances beyond the individual's control caused the employee to leave VA service or convert to an excluded category.
- c. Some examples of how this determination is reached are provided.

Sample Situations and Waiver Approval / Disapproval Justification

EXAMPLE A. Employee leaves voluntarily for another position -- refund liability.

APPROVE	DISAPPROVE
If an employee has credible information from VHA management that his or her position is going to be abolished, then a waiver is appropriate.	If an employee leaves to make more money, or to pursue another professional opportunity, then a waiver would not be appropriate, because the employee knew what the VA salary would be when he or she was hired. NOTE: If the employee's pay or hours are reduced by management, then a waiver might be appropriate.

EXAMPLE B. Employee is separated for cause – either whether performance-based or for misconduct, or resigns in lieu of management-initiated removal -- refund liability.

APPROVE	DISAPPROVE
If the employee is separated for failure to meet physical standards, or inability to perform due to mental or physical impediment, then a waiver may be granted. NOTE: Waivers are rarely justified in these situations	An employee's conduct and performance are normally considered to be within his or her control, so a waiver is usually not appropriate in these cases.

EXAMPLE C. Employee resigns pending resolution of EEO complaint or other grievance -- refund liability.

APPROVE	DISAPPROVE
If the employee's work situation was beyond that which a reasonable person would be expected to bear, then a waiver may be appropriate.	The employee's allegations are not supported by the facts, and the alleged work situation does not justify the employee's resigning.

NOTE that the waiver must be granted based on the statutory criteria; waivers may not be granted solely to facilitate resolution of complaints.

EXAMPLE D. Employee leaves voluntarily due to medical reasons -- refund liability.

APPROVE	DISAPPROVE
Based on a clinical evaluation of the medical evidence provided by the employee, a waiver may be appropriate. <i>(Some employees may prefer to take immediate optional retirement rather than wait for OPM to approve a disability retirement.)</i>	If the employee cannot provide credible medical evidence of significant permanent or long-term impairment that precludes gainful employment, then a waiver is not appropriate.

NOTE: The waiver is based on a clinical determination; the concurrence of appropriate clinical position in the Network should be obtained, as applicable.

EXAMPLE E. Employee leaves voluntarily for family reasons -- refund liability.

APPROVE	DISAPPROVE
If there is a serious change in employee's home situation, such as a marital breakup with custody issues, or a serious illness of a family member, that requires the employee to leave the area, then a waiver may be appropriate.	If the family situation is unchanged, or the situation does not preclude the employee continuing to work, or if the employee does not exercise other reasonable options (such as seeking employment at another VA facility), then a waiver is not appropriate.

EXAMPLE F. Employee converts to a category excluded from special pay, such as WOC or intermittent appointment, or less than quarter-time (under 10 hours per week) -- refund liability.

APPROVE	DISAPPROVE
If conversion is based on informal discussions with management, then a waiver is appropriate. <i>NOTE that management-initiated actions are not voluntary on the employee's part, and so do not cause a refund liability</i>	If the action is initiated by the employee, and is of no benefit to VA, then a waiver is not appropriate.

6. **Procedures for Submitting Waiver Requests for Decision.** A complete case is submitted for the Network Director's decision. The package should contain the employee's or former employee's request for waiver of special pay refund liability and a transmittal letter with recommended course of action (sample attached). Other information deemed relevant should also be included.

7. **Implementing The Waiver Decision**

a. Once a waiver request has been acted on, a copy of the decision should be provided to the employee. A copy should also be provided to the servicing Fiscal Office for cancellation of the debt (if the waiver is approved). The original decision, with supporting documentation, should be maintained in general subject files on-station for 3 years. The complete case materials should be available for post-review.

b. If the employee wishes to appeal the decision, the complete case, including the initial request, the Network Director's decision, and the request for an appeal should be submitted to HQ (10/051) for review. Once the Under Secretary has decided the appeal, the decision is final within VA.

[Sample waiver document]
VA Memorandum

Date:

From: *[Facility Director or other key official]*

Subj: Special Pay Liability Waiver Request – *[NAME of physician or dentist]*

To: Acting Under Secretary for Health (10) **

1. Attached is a request for waiver of special pay refund liability for Dr. *[NAME]*, who served as the *[POSITION]* at the *[FACILITY]*. *[Include date of separation and amount of refund liability -- EX: Dr. X resigned in the first year of his/her special pay agreement, resulting in a refund liability of (\$15,000 or less), 100% of the special pay received from (agreement date) until (separation date), his/her date of resignation.]*

2. The waiver is requested on the basis of *[BRIEF SUMMARY OF FACTS – REBUT EMPLOYEE’S CLAIMS, AS NECESSARY]*.

[RECOMMENDING APPROVAL] 3. Based on the information provided, the record supports a determination that Dr. *[NAME]* separated due to circumstances beyond his/her control. Recommend approval.

[RECOMMENDING DISAPPROVAL] 3. Based on the information provided, the record does not support a determination that Dr. *[NAME]* separated due to circumstances beyond his/her control. Recommend disapproval.

[NAME]

Attachment *[EMPLOYEE’S WAIVER REQUEST]*

_____ Approved

_____ Disapproved

[Network Director signs for]

Thomas L. Garthwaite, M.D
Deputy Under Secretary for Health**

Date

*[** Revise signature block as necessary]*

APPENDIX F.
ADJUSTING EMPLOYEE PAYROLL RECORDS DUE TO REFUND LIABILITIES

Overview of Required Steps

1. When physicians and dentists separate from VA service, the following documents are provided by the HR staff to Payroll for review and/or correction:

- RI 38-133, Certification for Title 38 Physicians and Dentists, completed with all appropriate information by HR personnel.
- VA Form 30-212, Individual Retirement RPO.
- SF 2821, Agency Certification of Insurance Status (for all retirements and separations of individuals currently enrolled in FEGLI).
- Statement regarding applicability of refund liability

2. Review the information on the RI 38-133, to insure that the information it contains agrees with the payroll folder and the SF 2806 or SF 3100.

3. If the information is in agreement, the package is ready for release. Make copies of all documents for filing in the payroll folder and forward original package to:

**AUSTIN FINANCE CENTER
ATTN: VICKI MCCANDLESS
1615 WOODWARD ST.
AUSTIN, TX 78772**

NOTE: Steps 1 through 3 are all that is needed to process a separation without refund liability or when the liability is waived before the individual separates.

4. If there is a refund liability, Payroll should receive the same information listed in Step 1, and SF 50B(s) correcting the amount of special pay in the employee's record from the last anniversary date of the special pay agreement through the separation date.

NOTE: There may be more than one SF 50B. There should be one SF 50B dated the anniversary date of the agreement, and one for every other pay action since then.

5. Review documents and the payroll folder SF 50B's to verify that an adjustment must be made.

6. Adjust payroll records as described below.

- a. If SF 1114, Bill for Collection has not been created, create one.
- b. Create R Transactions to:
 - Pull back retirement.
 - Pull back TSP, Employee amount and if applicable the Government Basic and the Government Match.

7. Keep copies of all documents in payroll folder. Mail original documents to the address listed in Step 3.

8. If the employee's refund liability is later waived, these actions must be undone and the special pay restored to the employee's record. Prepare SF 2806-1, CSRS, Notice of Correction of Individual Retirement Record or SF 3101, FERS, Notice of Correction of Individual Retirement Record, to restore the previously deleted special pay to the employees' credit.

NOTE: Retain documents in payroll folders for separated physicians and dentists for three (3) years from the date of review and/or corrections.

Reference Materials

In order to correct the employee's retirement record, you will need the following (not every item used in every case):

Form	Title	Information Required
SF 50	Notification of Personnel Action	You may receive multiple SF 50B's. The one with the earliest effective date (Block # 4) should coincide with the employee's agreement anniversary date, and should indicate the reduced amount of special pay. This is the beginning date of overpayment. The effective date on the Separation/Retirement SF 50 should show the same reduced amount of special pay, and establishes the amount of special pay the employee is entitled to receive in the lump sum leave payment.
PAID Calendar	PAID Day Number Calendar	PAID Calendars for the year(s) in which the corrections fall. These calendars identify the specific pay periods in which the adjustments fall, and indicate whether or not partial pay periods are involved.
VA Form 5691	Record of Salary Payments	You will need the Record of Salary Payments for each year in which the individual's special pay is to be reduced. The Record of Salary Payments for the year of separation should be filed in the payroll folder. Prior year records are on microfiche at each station. These records will show all payments and deductions for each pay period and the number of days worked.
SF 2806	CSRS Individual Retirement Record	This contains the employee's service history (promotions, pay adjustments, etc.) for all VA service. It also contains the retirement contributions made in each year and total contributions made during VA service.
SF 3100	FERS Individual Retirement Record	This contains the employee's service history (promotions, pay adjustments, etc.) for all VA service. It also contains the retirement contributions made in each year and the total contributions made during VA service.

SF 2806-1	CSRS Correction of Individual Retirement Record	Used to amend information reported to OPM on SF 2806. It is prepared manually, and contains corrected service history and/or CSRS retirement contributions.
SF 3101	FERS Correction of Individual Retirement Record	Used to amend information reported to OPM on SF 3100, It is prepared manually, and contains corrected service history and/or FERS retirement contributions.
VA Form 4-9997	Request for TD Form W-2C	These will be required when OASDI/Medicare corrections are required to prior year's earnings. See MP-6, Part V, Supplement 2.3, Chapters 5 and 13 for instructions on completing this form.
	Retirement History Rate	Chart of retirement percentage rates for CSRS and FERS retirement contributions in effect in prior years. (See attached)
	Retirement/FICA Codes and Deduction Rates	Chart of retirement codes and current amounts of retirement, OASDI, and Medicare deductions for employee and employer, if applicable to that retirement coverage.
VA Form 4-5638a	Pay Adjustment & Cash Payment Code Sheet - Suppl.	Used to compute and pull back TSP deductions, Government Basic and Government Matching contributions for separated employees, when refund liability reduces employee's contributions.
VA Form 4652	Notice of Check Cancellation or Cash Collection	Used to record current year cash collection from a separated employee, when employee pays refund liability.

Instructions for Adjusting Physicians' and Dentists' Payroll Records for Refund Liabilities

Step 1. Review package from HRM, establish refund liability period – dates when special pay is reduced.

Step 2. Find employee's retirement code on Retirement History Rates chart. If employee is retirement code K, check to see if dates fall during periods when VA share of FERS was different. If so, the rate in effect at that time.

Step 3. Review VA Form 5691, Record of Salary Payments, for the year(s) to be corrected. For example, if agreement runs from July 1999 to June 2003, and breach occurs in February 2001, review records of salary payments for 2000 and 2001.

Step 4. On separate sheet of paper and using the Record of Salary Payments as source document, list each pay period, base pay, special pay, gross wages, wages subject to retirement, retirement deduction, TSP (Employee Amount, Government Basic and Government Match), Medicare deductions, and OASDI deductions. If adjustment is for current tax year, also list Federal, State and local taxes. The list of pay periods starts with pay period in which special pay is reduced by correction SF 50B. If more than one tax year is involved, prepare a sheet for each tax year.

Step 5. On second sheet of paper, list same items from Step 4, but change amount of special pay to that shown on correction SF 50B. Now recalculate special pay, retirement deductions, TSP, OASDI, Medicare, and taxes (for current tax year only).

NOTE: If adjustment is made late in the tax year, verify that employee has not met the OASDI wage and tax limit. If limit has already been reached, OASDI wages and taxes may not have to be adjusted unless the reduction of special pay will take the OASDI wages and taxes below the limit for the year.

Step 6. On third sheet of paper, list reduced amounts of special pay, retirement deductions, TSP, OASDI, Medicare, and taxes (for current tax year). These are the differences between the amounts in Steps 4 and 5.

DO NOT DESTROY THESE SHEETS. They will be used to collect excess retirement and TSP contributions, apply employee's share of funds to outstanding debts, and to prepare corrected W-2 for OASDI and Medicare.

Step 7. On PAID/OLDE Screen C325, "PAID - Payment Run Transactions, Enter Retirement (R3)," enter employee's and VA's share with a minus under appropriate type of retirement (FERS or CSRS). Code the employee's share amount in other deductions, this will place the money in suspense to be applied to the Bill of Collection.

Step 8. Prepare SF 2806-1, "CSRS Notice of Correction of Individual Retirement Record" or SF 3101, "FERS Notice of Correction of Individual Retirement Record," as applicable. See form for instructions on completing.

Step 9. Prepare VA Form 4-5638a using R6, R7, R8, and R1 actions to pull back money from TSP. See Interim Issue 004-90-6, dated December 17, 1990, for instructions. If employee has already separated, send original form to Austin Finance Center.

Step 10. When employee settles debt, prepare VA Form 5642, Notice of Check Cancellation or Cash Collection. Also use form for current year cash collection from a separated employee. Send original form to Austin Finance Center.

If collection is for prior year, prepare VA Form 4-9997, "Request for TD Form W-2C," reducing OASDI and Medicare wages (and taxes, if applicable). Issue letter to former employee, in accordance with MP 6, Part V, Supplement 2.3, Chapter 6, Recoveries, Paragraph 6.04, Cash Collection (Appropriation Refund) Prior Taxable Year Involved (Including OWCP).

Step 11. After retirement and TSP adjustments (Steps 7-9) are made, review RI 38-133, SF 2806-1 (or SF 3101) to confirm consistent salary data.

Step 12. Copy all documents and file copies in payroll folder.

Step 13. Mail original documents to:
AUSTIN FINANCE CENTER
ATTN: VICKI MCCANDLESS
1615 WOODWARD ST
AUSTIN, TX 78772

NOTE: Retain documents in payroll folders for separated physicians and dentists for three (3) years from the date of review and/or corrections.

RETIREMENT HISTORY RATES

RETIREMENT CODE	PERCENTAGE RATE		EFFECTIVE DATE
1	EMPLOYEE	AGENCY	
	7%	7%	Prior to PP 21, 1997
	7%	8.51%	PP 21, 1997
	7.25%	8.51%	PP 01, 1999
6	7.40%	8.51%	PP 01, 2000
	7.5%	7.5%	Prior to PP 21, 1997
	7.5%	9.01%	PP 21, 1997
	7.75%	9.01%	PP 01, 1999
C	7.90%	9.01%	PP 01, 2000
	1.3%	7%	PP 01, 1984
	0.94%	7%	PP 26, 1987
	0.8%	7%	PP 26, 1989
	0.8%	8.51%	PP 21, 1997
	1.05%	8.51%	PP 01, 1999
E	1.20%	8.51%	PP 01, 2000
	1.8%	7.5%	PP 01, 1984
	1.44%	7.5%	PP 26, 1987
	1.35%	7.5%	PP 26, 1989
	1.35%	9.01%	PP 21, 1997
	1.55%	9.01%	PP 01, 1999
R	1.70%	9.01%	PP 01, 2000
	1.3%	7%	PP 01, 1984
	0.94%	7%	PP 26, 1987
	0.8%	7%	PP 26, 1989
	0.8%	8.51%	PP 21, 1997
	1.05%	8.51%	PP 01, 1999
T	1.20%	8.51%	PP 01, 2000
	1.8%	7.5%	PP 01, 1984
	1.44%	7.5%	PP 26, 1987
	1.3%	7.5%	PP 26, 1989
		9.01%	PP 21, 1997
	1.55%	9.01%	PP 01, 1999
K	1.70%	9.01%	PP 01, 2000
	1.3%	14.8%	PP 01 1987
	0.94%	12.86%	PP 26, 1987 - PP 1989
	0.8%	13.0%	PP 26, 1989 - PP 19, 1991
	0.8%	12.9%	PP 20, 1991 - PP 19, 1994
	0.8%	11.4%	PP 20, 1994
	0.8%	10.7%	PP 21, 1997
	1.05%	10.7%	PP 01, 1999

RETIREMENT CODE	PERCENTAGE RATE		<u>EFFECTIVE</u> <u>DATE</u>
	EMPLOYEE	AGENCY	
K (cont.)	1.20%	10.7%	PP 01, 2000
M	1.8%	29.4%	PP 01, 1987
	1.44%	29.4%	PP 21, - 25, 1987
	1.44%	25.26%	PP 26, 1987 - PP 25, 1989
	1.3%	25.4%	PP 26, 1989 - PP 19, 1991
	1.3%	27.3%	PP 20, 1991 - PP 19, 1994
	1.3%	24.3%	PP 20, 1994
	1.3%	23.30%	PP 21, 1997
	1.55%	23.30%	PP 01, 1999
	1.70%	23.3%	PP 01, 2000

CURRENT RETIREMENT/FICA CODES AND DEDUCTION RATES

RET/FICA	CODE	RET Empl. Agency	OASDI Empl. Agency	MEDICARE Empl. Agency
CSRS #	1	7.40% 8.51%	- -	1.45% 1.45%
FICA	2	- -	6.20% 6.20%	1.45% 1.45%
FICA @ F OR J VISA	4	- -	- -	1.45% 1.45%
CSRS # FF or Leo	6	7.9% 9.01%	- -	1.45% 1.45%
CSRS # OFFSET	C	1.20% 8.51%	6.20% 6.20%	1.45% 1.45%
CSRS # OFFSET FF or Leo	E	1.70% 9.01%	6.20% 6.20%	1.45% 1.45%
CSRS #	R	1.20% 8.51%	6.20% 6.20%	1.45% 1.45%
CSRS #	T	1.70% 9.01%	6.20% 6.20%	1.45% 1.45%
FERS *	K	1.20% 10.7%	6.20% 6.20%	1.45% 1.45%
FERS * FF or Leo	M	1.70% 23.3%	6.20% 6.20%	1.45% 1.45%

NOTES:

* Note that VA share changed during 1991; check dates when making adjustments in that year.

Employer share not assessed for re-employed annuitants.

@ For employees with Retirement Code 4, Medicare coverage is dependent on type of visa.

OASDI AND MEDICARE WAGE BASE AND TAXES

TAX YEAR	OASDI		MEDICARE	
	WAGE	TAX	WAGE	TAX
1991	\$53,400.00	\$3,310.00	\$125,000.00	\$1,812.50
1992	\$55,500.00	\$3,441.00	\$130,200.00	\$1,887.90
1993	\$57,600.00	\$3,571.20	\$135,000.00	\$1,957.50
1994	\$60,600.00	\$3,571.20	-	-
1995	\$61,200.00	\$3,794.40	-	-
1996	\$62,700.00	\$3,887.40	-	-
1997	\$65,400.00	\$4,054.80	-	-
1998	\$68,400.00	\$4,240.80	-	-
1999	\$72,600.00	\$4,501.20	-	-
2000	\$76,200.00	\$4,724.40	-	-

ANNUAL TSP MAXIMUM CONTRIBUTIONS

Tax Year	TSP Maximum Donation
1991	\$8,475.00
1992	\$8,728.00
1993	\$8,994.00
1994 – 1995	\$9,240.00
1996 – 1997	\$9,500.00
1998 - 1999	\$10,000.00
2000	\$10,500.00

APPENDIX G.
COMPUTING LUMP SUM LEAVE PAYMENTS FOR PHYSICIANS AND DENTISTS

1. Employees receive payment for any accumulated and unused annual leave to their credit when they separate. The payments are based on the employees' rate of pay at the time of separation. Special pay is included in lump sum leave (LSL) payments, unless it has been forfeited.

2. Special pay that is deducted from employees' salary records because of refund liabilities may not be included in LSL computations. This is because the individuals have forfeited entitlement to that money. Individuals who separate with refund liabilities will have their LSL payments computed based on salaries as shown:

Total Salary	LSL Base Without Liability	LSL Base With 100% Liability	LSL Base With 75% Liability	LSL Base With 50% Liability	LSL Base With 25% Liability
\$150,000 (\$100,000 base pay + \$50,000 special pay)	\$150,000 (full special pay)	\$100,000 (no special pay)	\$112,500 (25% special pay)	\$125,000 (50% special pay)	\$137,500 (75% special pay)

3. Because of the potential for significant reduction of LSL payments due to a refund liability, it is critical that employees be advised of the importance of separating on the last day of the year of obligated service.

4. If the refund liability is subsequently waived, employees are entitled to any additional payment due to the restored special pay. For this reason, it is important to maintain close coordination between the manager, the HR staff, and the Payroll/Fiscal operations, to ensure that LSL payments are computed and, if necessary, recomputed, accurately.

APPENDIX H.
REPORTING PHYSICIAN AND DENTIST SALARIES FOR FEGLI COVERAGE

1. Physicians and dentists enrolled in the Federal Employees Group Life Insurance (FEGLI) program who separate from Federal employment may elect to convert their insurance coverage. Retiring employees may elect to continue their coverage, if they meet certain requirements.

2. The amount of employees' life insurance coverage is based on their final salary. Agencies must complete SF 2821, "Agency Certificate of Insurance Statement," to certify retiring employees' final salary. If employees separate from VA with a refund liability, the face value of their life insurance will be reduced as well.

3. Examples are provided that show how to report amounts of special pay in SF 2821:

a. Employee works full-time earning \$150,000 (\$100,000 base pay + \$50,000 special pay). Employee separates with refund liability in first year of agreement. *Report \$100,000 on SF 2821, due to 100% refund liability.*

b. Employee works full-time earning \$150,000 (\$100,000 base pay + \$50,000 special pay). Employee separates with refund liability in second year of agreement. *Report \$112,500 (100,000 base pay + \$12,500, 25% of special pay) due to 75% refund liability. Employee is entitled to credit for the unforfeited portion of special pay.*

c. Employee works 6/8ths (60 hours per pay period) earning annualized salary of \$120,000 (\$100,000 base pay + \$20,000 special pay). Employee separates **without** refund liability. *Report \$90,000 (\$75,000, 75% of the annualized base pay + \$15,000, 75% of special pay). Note that prorated amounts are reported, based on normal hours.*

d. Employee works half-time (40 hours per pay period) earning annualized salary of \$120,000 (\$100,000 base pay + \$20,000 special pay). Employee separates with refund liability in first year of agreement. *Report \$50,000 on SF 2821, due to proration of salary for part-time service and 100% refund liability.*

e. Employee works 7/8ths (70 hours per pay period) earning annualized salary of \$120,000 (\$100,000 base pay + \$20,000 special pay). Employee separates **without** refund liability. *Report \$102,500 (\$87,500 base pay @ 7/8ths + \$15,000 special pay @ 75%), due to proration of salary for part-time service and 75% statutory cap on payable special pay for part-time employees.*

f. Employee works 7/8ths (70 hours per pay period) earning annualized salary of \$120,000 (\$100,000 base pay + \$20,000 special pay). Employee separates with refund liability in third year of a multi-year agreement. *Report \$95,000 (\$87,500 base pay @ 7/8ths + \$7,500 special pay @ 75%), due to proration of base pay for part-time service, 75% cap on special pay for part-time employees, and 50% refund liability of payable special pay.*

4. If a waiver of refund liability is later granted to the employee, a corrected SF 2821 must be submitted reflecting the recrediting of special pay to the employee's FEGLI coverage. This is required only if the employee is retirement eligible. Be sure to mark the revised form "Corrected."

APPENDIX I. COMPLETING OPM FORM RI 38-133

OPM requires that VA prepare Form RI 38-133 for every VHA physician and dentist who separates from VA employment. Even individuals who resign, are removed, or transfer to other Federal agencies must have forms completed for them. This is because of the special rules in 38 U.S.C. 7438 governing the crediting of special pay to retirement.

A sample form follows. For individuals separating with immediate annuities or deaths in service, all portions of the form must be completed. For all other separations, items 2 and 3 may be left blank. The reverse of the form, which contains instructions for filling out each item, is also included here. Special information for completing the form:

Items 1a and 1b, Employee Name and Social Security Number – Self-explanatory.

Item 2, FEGLI Final Salary -- See Appendix C for detailed instructions. This amount should reflect the proration for part-time service, as well as the reduction for any refund liability. If the liability is later waived, an amended RI38-133, along with a corrected 2806, must be prepared.

Item 3, Meeting 15-Year Requirement – If the employee has not completed at least 15 full years of service as a VHA physician or dentist, special pay may not be used in high-3 computations. See section 3 of HR Flyer 051-21 (as modified by Flyer 051-66) for detailed information on what types of service count for satisfying this requirement.

Item 4, Separation Date and NOA – Self-explanatory.

Item 5, 4118 Special Pay – Show the amount of 4118 special pay that was subject to retirement contributions as of July 13, 1991, if the individuals were employed in VHA at that time. Under the prior special pay law (38 U.S.C. 4118), only full-time employees could have retirement deductions from their special pay. If they were part-time on July 13, 1991, or if they had elected in 1980-1981 to waive retirement deductions, their special pay would not have been subject to retirement deductions. Employees' elections from 1980-1981 should be filed in their OPFs as a permanent record.

Item 6, Average Pay – Complete this item for all separations, including retirement or death in service. *This information is used to develop the high-3 estimate.* Once employees have met the 15-year service requirement, they have special pay vested in their high-3 computations. How much of that special pay to be used depends on how many years of service the employee has completed after July 13, 1991. The employee will receive 25% credit for every full two years of service completed after July 13, 1991. Report annual salaries (not prorated amounts) for part-time service.

Item 7, Agency Certification – Provide name and address for OPM to use if further information is needed.

Certification for Title 38 Physicians and Dentists

1a. Name of Employee		1b. Social Security Number	
2. Final salary for FEGLI, adjusted for any refund liability or termination of special pay: \$		3. Has retiree met the 15-year service requirement as a physician or dentist? N/A (Disability Retirement or Death-in-Service; go to #4) Yes (Go to #5)	
4. Date of separation and nature of action:		5. Enter the amount of 4118 special pay on July 13, 1991, if retirement deductions were withheld from the 4118 special pay. Otherwise, enter zero. =>=>=>=>=>=>=>	

6. Basic pay for Average Salary (See Instructions)
Formula for Creditable 7431 Special Pay From 7/14/91

A	B		C		D		E		F		G	
Effective Date	7431 Special Pay	-	4118 Special Pay	=	Difference	X	%	=	Creditable 7431 Special Pay	+	4118 Special Pay	+
		-		=		X		=		+		+
		-		=		X		=		+		+
		-		=		X		=		+		+
		-		=		X		=		+		+
		-		=		X		=		+		+
		-		=		X		=		+		+
		-		=		X		=		+		+
		-		=		X		=		+		+

7. Agency Certification:		I certify that the information on this form accurately reflects information contained in the Official Personnel File of this agency. The 7431 special pay certified in Column B does not include amounts for which the agency is not responsible.	
Print or type name		Agency Name and Address:	
Signature and date			
Official title and telephone number (including area code)			

**Certification for Physicians/Dentists of the Department of Veterans Affairs
Receiving Special Pay under Chapter 74 of Title 38, U.S. Code**

(Use the reverse side of this form to certify the 15-year service requirement, the final salary rate for Federal Employees' Group Life Insurance (FEGLI), and to calculate the average salary pay rates for retirement)

Instructions

1. Print the employee's name and social security number.
2. Enter the final salary for FEGLI purposes, excluding any amount for refund liability or adjustment due to termination of special pay. The 15-year service requirement does not apply to special pay for FEGLI purposes.
3. Check the appropriate box regarding the 15-year service requirement. If the separation is due to disability retirement or death-in-service, the 15-year service requirement is NOT applicable. If the separation is due to non-disability retirement and the 15-year service requirement is not met, check no and skip #5.
4. Provide the separation date and nature of action (e.g., 4/15/94, Voluntary Retirement).
5. Enter the amount of 4118 special pay in effect on July 13, 1991, if retirement deductions were withheld from the 4118 special pay. Otherwise, enter zero.
6. Use this table to compute the basic pay available for the high-3 average salary period. Review the employee's pay history to determine which consecutive years will produce the highest earnings; this may not always be the last 3 years. Sufficient pay history must be certified to allow the Office of Personnel Management to determine the highest 3 years of pay for the average salary, e.g., if it appears the high-3 average salary period began in 06/91, but the effective date for the first pay adjustment in that period occurred in 05/90, enter the actual effective date for that pay adjustment.

*If the employee does **not** have 7431 special pay on the date in **Column A**, complete **Columns A, G, H, and I**. Complete all **Columns** if 7431 special pay is involved. If the 15-year requirement is **not** met in non-disability retirement cases, complete only **Columns A and H**.*

Column A: Enter the effective date for the adjustment in pay.

Columns B through F: Complete only if the employee was in receipt of 7431 special pay on the date in **Column A**.

Column B: Enter the amount of 7431 special pay, excluding any amount involving a refund liability which has **not** been waived. If a waiver is later approved, submit a corrected certification of the average salary pay rate to reflect the additional special pay.

Column C: Enter the amount of 4118 special pay from item 5.

Column D: Enter the difference between **Columns B** and **C**.

Column E: Enter 100% if separation is due to death-in-service or disability retirement. Otherwise, enter 25% of amount in **Column D** for each two years of physician/dentist service after July 13, 1991, as follows:

- If less than two years, enter 0%.
- If at least two years but less than four years, enter 25%.
- If at least four years but less than six years, enter 50%.
- If at least six years but less than eight years, enter 75%.
- If eight years or more, enter 100%.

Column F: Enter the amount of creditable 7431 special pay by multiplying **Columns D** and **E**.

Column G: If the employee was not in receipt of 7431 special pay, enter the amount of 4118 special pay if it was subject to retirement deductions or enter zero if it was not subject to retirement deductions. If the employee was receiving 7431 special pay, enter the amount from item 5.

Column H: Enter the basic pay rate.

Column I: Add **Columns F** (if applicable), **G**, and **H** and enter the amount.

7. To be completed by agency official.